

AMENDATORY SECTION (Amending WSR 98-01-144, filed 12/19/97, effective 1/20/98)

**WAC 242-02-040 Definitions.** As used in this title, the following terms shall have the following meaning:

(1) "Act" means the Growth Management Act, chapter 36.70A RCW, and subsequent amendments.

(2) "Board" means the Eastern Washington, Western Washington or Central Puget Sound growth management hearings board.

(3) "Final decision" means:

(a) Any final order as provided in RCW 36.70A.300; or

(b) Any other written finding, determination or order of the board which finally determines a legal right, duty, or other legal interest of the parties in the case and which clearly states such written finding, determination or order that it is a final decision subject to appeal to superior court.

(4) "Hearing examiner" means an authorized agent of a board who has a demonstrated knowledge of land use planning and law, appointed to assist the board in the performance of its hearing function as delegated by the board as provided by the act.

(5) "Joint boards" means the three independent boards meeting or acting jointly.

(6) "Office of the growth management hearings boards" means the administrative office of the three growth management hearings boards established in RCW 36.70A.250.

(7) "Participant" means any person with standing to challenge a legislative action as set forth in RCW 36.70A.330(2).

~~((+7+))~~ (8) "Party" means any person named in the caption of a case before a board.

~~((+8+))~~ (9) "Person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit, or public or private organization or entity of any character.

~~((+9+))~~ (10) "Petitioner" means a person who appeals any matter or who brings a petition for rule making to the board. A petitioner is a party to a case before the board.

~~((+10+))~~ (11) "Presiding officer" means any member of a board, or a hearing examiner, who is assigned to conduct a conference or hearing as directed by a board. The presiding officer shall be designated pursuant to WAC 242-02-521 and have authority as provided by WAC 242-02-522.

~~((+11+))~~ (12) "Publication" means:

(a) For a city, the date the city publishes the ordinance or summary of the ordinance adopting a comprehensive plan, development regulations or subsequent amendment, as is required to be published, or the date the city publishes notice that the shoreline master program or amendment has been approved or disapproved by the department of ecology;

(b) For a county, the date the county publishes the notice that it has adopted a comprehensive plan, development regulations or other enactments, or subsequent amendments pursuant to RCW 36.70A.290(2), or the date the county publishes notice that the shoreline master program or amendment has been approved or disapproved by the department of ecology.

((+12+)) (13) "Respondent" means a person who is named as a responding party in any petition for review before a board.

AMENDATORY SECTION (Amending WSR 03-15-047, filed 7/11/03, effective 8/11/03)

**WAC 242-02-052 Petition for rule making.** (1) Right to petition for rule making. Any person may petition the joint boards for the adoption, amendment, or repeal of any rule. Said petition shall be filed with the ((Western Washington)) joint boards in care of the office of growth management hearings boards.

(2) Form of petition. The form of the petition for adoption, amendment, or repeal of any rule shall generally adhere to the following:

(a) A caption in the following form:

BEFORE THE JOINT GROWTH MANAGEMENT  
HEARINGS BOARDS  
STATE OF WASHINGTON

No.

In the matter of  
the Petition of PETITION FOR RULE MAKING  
(Name of Petitioner)  
for Rule Making

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether the petitioner seeks the adoption of a new rule or rules, or amendment or repeal of an existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by board rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interests of the petitioner and the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(c) The petition shall be dated and signed by the party named in the first paragraph or by the petitioner's attorney or other

authorized representative. The original and nine copies shall be filed with the appropriate board at its office.

AMENDATORY SECTION (Amending WSR 03-15-047, filed 7/11/03, effective 8/11/03)

**WAC 242-02-070 Quorum.** (1) Joint boards. For the purpose of adopting, amending, or repealing these rules or transacting other administrative business, at least two members of each board (~~(must concur)~~) shall constitute a quorum of the joint boards. A quorum being present, any action may be taken upon the vote of the majority of the joint board members.

(2) Individual board. For purposes of making orders or decisions or transacting other official administrative business for an individual board, two members of a board shall constitute a quorum and may act even though one position on the board is vacant. One member or designated hearing examiner may hold hearings and take testimony. The findings of such member or hearing examiner shall not become final until approved by a majority of the board. A board member who does not attend a hearing shall review a transcript or recording of the hearing before signing the decision.

AMENDATORY SECTION (Amending WSR 08-10-029, filed 4/28/08, effective 5/29/08)

**WAC 242-02-072 (~~(Principal)~~) Board offices.** (~~((The principal offices of each board are as follows:~~

- (1) ~~Eastern Washington Growth Management Hearings Board  
15 West Yakima Avenue, Suite 102  
Yakima, Washington 98902  
509-574-6960  
509-574-6964 fax  
e-mail: AAndreas@EW.GMHB.WA.GOV  
web site: www.gmhb.wa.gov/eastern~~
- (2) ~~Western Washington Growth Management Hearings Board  
319 - 7th Avenue S.E. (as of June 2008)  
Olympia, WA 98501  
P.O. Box 40953  
Olympia, Washington 98504-0953  
(360) 664-8966  
(360) 664-8975 fax~~

~~e-mail: western@ww.gmhb.wa.gov~~  
~~web site: www.gmhb.wa.gov/western~~

~~(3) Central Puget Sound Growth  
Management Hearings Board  
800 Fifth Avenue, Suite 2356  
Seattle, Washington 98104  
(206) 389-2625  
(206) 389-2588 fax  
e-mail: central@cps.gmhb.wa.gov  
web site: www.gmhb.wa.gov/central))~~

(1) The administration of the three boards is consolidated in one office - the office of the growth management hearings boards:

Office of the Growth Management Hearings Boards  
319 - 7th Avenue S.E.  
Olympia, WA 98501  
P.O. Box 40953  
Olympia, WA 98504-0953  
360-586-0260  
360-664-8975 Fax  
e-mail: eastern@ew.gmhb.wa.gov  
western@ww.gmhb.wa.gov  
central@cps.gmhb.wa.gov  
web site: www.gmhb.wa.gov

(2) The filing of all petitions, briefings, exhibits, and other documents related to any proceeding before an individual board shall be made to the office of the growth management hearings boards, with specific indication of the appropriate board's name - Eastern, Western, or Central Puget Sound.

AMENDATORY SECTION (Amending WSR 08-10-029, filed 4/28/08, effective 5/29/08)

**WAC 242-02-074 Regular meetings.** (1) Regular meetings of each board will be held at ~~((its principal))~~ the office of the growth management hearings boards, or a designated location at the following times:

(a) Eastern Washington board - on the first Wednesday of each month at 10:00 a.m. or following any scheduled hearing on that date.

(b) Western Washington board - on the second Wednesday of each month at 11:00 a.m. or following any scheduled hearing on that date.

(c) Central Puget Sound board - on the first Monday of each month at 10:00 a.m. or following any scheduled hearing on that date.

(2) The joint boards shall meet annually at a time and location to be announced.

(3) An individual board shall make available the location of such a meeting if it is not to be held at the office of the growth management hearings boards.

AMENDATORY SECTION (Amending WSR 08-21-015, filed 10/3/08, effective 11/3/08)

**WAC 242-02-075 Special meeting.** (1) A special meeting of the joint boards may be called at the request of any three of the nine board members. To call a special meeting, a written notice of the meeting shall be posted on the boards' web site and personally e-mailed to:

(a) Each member of the boards; and

(b) Each general circulation newspaper, television or radio station which has on file with the boards a written request to be notified of special meetings.

(2) The written notice shall state the date and time of the meeting, and shall specify the business to be transacted by the boards. The boards will not take final action on any matter that is not specified in the written notice.

(3) Notices of special meetings shall be sent by e-mail:

(a) ~~((Ten days))~~ One day (twenty-four hours) before the scheduled meeting; except

(b) When a special meeting is called to consider rule changes pursuant to chapter 34.05 RCW, the notice shall be sent at least twenty days prior to the meeting; and except

(c) In the event of an emergency requiring board action, the notice and timing requirements may be waived as provided in RCW 42.30.080.

(4) The special meeting shall be chaired by one of the board members who called the meeting.

(5) A special meeting may be held by telephone conference call.

(6) Two members of each board will constitute a quorum for a special meeting.

(7) Members of the public may attend a special meeting by appearing at any of the three board offices, or the location of the special meeting, at the date and time set for the meeting.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92, effective 10/15/92)

**WAC 242-02-080 Form and size of documents.** Documents, other than exhibits, shall be ~~((typewritten or printed, properly~~

~~captioned, signed by the appropriate person submitting the same, shall include his/her address and telephone number, and shall be on 8-1/2 x 11 inch paper. Each board uses IBM compatible software. A board may request submission of a disk from a party, if appropriate)) provided in the manner indicated in a board's prehearing order.~~

AMENDATORY SECTION (Amending WSR 94-07-033, filed 3/9/94, effective 4/9/94)

**WAC 242-02-140 Signing of pleadings, motions, and legal memoranda.** Every pleading, motion and legal memorandum of a party shall be dated and signed by the party, or the party's attorney or other authorized representative and include an address ~~((and))~~, telephone and fax numbers, and electronic mail address.

AMENDATORY SECTION (Amending WSR 06-12-019, filed 5/26/06, effective 6/26/06)

**WAC 242-02-210 Petition for review--Forms--Contents.** A petition for review shall substantially contain:

(1) A caption in the following form:

BEFORE THE . . . GROWTH MANAGEMENT  
HEARINGS BOARD  
STATE OF WASHINGTON

Petitioner,

Case No.

v.

PETITION FOR REVIEW

Respondent.

(2) Numbered paragraphs stating:

(a) Petitioner's name, mailing address ~~((and))~~, telephone number, and electronic mail address, and those of the attorney or other authorized representative, if any;

(b) Date of the challenged order, determination, publication, or other action or, in the case of an alleged failure to act, the date by which the action was required to be taken;

(c) A detailed statement of the issues presented for resolution by the board that specifies the provision of the act or other statute allegedly being violated and, if applicable, the provision of the document that is being appealed;

(d) A statement specifying the type and the basis of the

petitioner's standing before the board pursuant to RCW 36.70A.280(2);

(e) The estimated length of the hearing;

(f) The relief sought, including the specific nature and extent;

(g) A statement that the petitioner has read the petition for review and believes the contents to be true, followed by the petitioner's signature or signature of the attorney(s) or other authorized representative(s), if any.

(3) One copy of the applicable provisions of the document being appealed, if any, shall be attached to the petition for review. Petitioner shall provide the board with a copy of the entire document being appealed within thirty days of filing a petition for review, unless otherwise directed by the board.

AMENDATORY SECTION (Amending WSR 08-10-029, filed 4/28/08, effective 5/29/08)

**WAC 242-02-230 Petition for review--Service and filing.** (1) At least one copy of the petition for review shall be filed with the board by electronic mail, as provided in WAC 242-02-240, unless a petitioner does not have the technological capacity to do so. The original and four copies of the petition for review shall be filed with a board personally, or by first class, certified, or registered mail. Filings may also be made with a board by ~~((electronic mail or))~~ telefacsimile transmission as provided in WAC 242-02-240. A copy of the petition for review shall be personally served upon all other named parties or deposited in the mail and postmarked on or before the date filed with the board. When a county is a party, the county auditor shall be served in noncharter counties and the agent designated by the legislative authority in charter counties. The mayor, city manager, or city clerk shall be served when a city is a party. When the state of Washington is a party, the office of the attorney general shall be served at its main office in Olympia unless service upon the state is otherwise provided by law. Proof of service may be filed with the board pursuant to WAC 242-02-340.

(2) A board may dismiss a case for failure to substantially comply with subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 08-10-029, filed 4/28/08, effective 5/29/08)

**WAC 242-02-240 Date of filing--Facsimile and electronic mail.**

(1) The date of filing shall be the date of actual receipt by a board at ~~((its))~~ the office of the growth management hearings boards. The date stamp placed on the petition shall be presumptive evidence of the date of receipt.

(2) Filing of any documents with a board by electronic mail or telefacsimile transmission is at the risk of the sender and shall not be deemed complete unless the following procedures are strictly observed:

(a) An electronic mail or telefacsimile document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's telefacsimile machine or receiving computer shall be presumptive evidence of the date and time of receipt of transmission.

(b) The original document and four copies ~~((must))~~ shall be mailed and postmarked or otherwise transmitted to the board on or before the date of sending the telefacsimile transmission or electronic mail.

(c) Documents over fifteen pages in length may not be filed by telefacsimile without prior approval of the presiding officer.

(3) A telefacsimile or electronic mail copy shall constitute an original solely for the purpose of establishing the date a document was filed.

AMENDATORY SECTION (Amending WSR 08-10-029, filed 4/28/08, effective 5/29/08)

**WAC 242-02-250 Notice of appearance and answer.** (1) The respondent shall file a notice of appearance with the board and serve a copy on the petitioner and all other parties promptly after having been served with a petition for review. The notice of appearance shall be dated, signed and contain the respondent's address, telephone and fax numbers, and ~~((e-mail))~~ electronic mail address.

(2) The respondent, at its option, may file an answer to the petition for review. The respondent shall file the original and four copies with the board and serve a copy on the petitioner. Answers shall be filed no later than twenty days from the date of service of the petition for review. Answers shall be verified in the same manner as the petition for review.



AMENDATORY SECTION (Amending WSR 98-01-144, filed 12/19/97, effective 1/20/98)

**WAC 242-02-292 Direct review by superior court--Agreement of the parties.** (1) A direct review agreement of the parties shall contain:

(a) A caption in the following form:

BEFORE THE ... GROWTH MANAGEMENT  
HEARINGS BOARD  
STATE OF WASHINGTON

|             |   |
|-------------|---|
| Petitioner, | Case No.  |
| v.          |   |
| Respondent  | Agreement for Direct Review<br>by ... County Superior Court |

(b) Numbered paragraphs stating:

(i) Petitioner's name, mailing address ~~((and))~~, telephone number, and electronic mail address, and those of the attorney or other designated representative, if any;

(ii) Respondent's name, mailing address ~~((and))~~, telephone number, and electronic mail address, and those of the attorney or other designated representative, if any;

(iii) Intervenor's name, mailing address ~~((and))~~, telephone number, and electronic mail address, and those of the attorney or other designated representative, if any;

(iv) A statement indicating agreement to seek direct review by superior court of the petition for review filed with the board, citing case name and number as assigned by the board. The statement shall include agreement to proper venue, and may include other terms;

(v) Date the petition for review was filed, or if multiple petitions were filed and consolidated, the date the board served notice of consolidation;

(vi) A statement that all parties have read the agreement for direct review by superior court, and agree to its terms, followed by the signatures of all the parties or the signatures of the attorneys or other designated representatives, if any.

(2) One copy of the filed petition for review, with the case name, number and date stamp shall be filed with the agreement for direct review by superior court.

AMENDATORY SECTION (Amending WSR 08-10-029, filed 4/28/08, effective 5/29/08)

**WAC 242-02-320 Method of service.** Service of papers, specified in WAC 242-02-310(1), shall be made by electronic mail unless the party does not have the technological capacity to do so. Service may also be made personally ~~((or))~~ by first class,

registered or certified mail, or by telefacsimile transmission. ~~((The board may be served))~~ If service is by electronic mail ~~((filings, provided that))~~ or telefacsimile, an original and four copies ~~((are))~~ shall be properly addressed to a board, deposited in the mail, and postmarked no later than the same day. Exhibits shall not be served electronically but shall be deemed timely filed if included in the mailed copies.

AMENDATORY SECTION (Amending WSR 94-07-033, filed 3/9/94, effective 4/9/94)

**WAC 242-02-330 Service of papers--When complete.** (1) Papers required to be filed with a board shall be deemed filed upon actual receipt during office hours at the board's office.

(2) All facsimile and electronic mail transmissions are sent at the risk of the sender and only pursuant to the procedures specified in WAC 242-02-240.

(3) This section shall not extend any applicable time for appeal to a board nor extend the time for providing notice of appeal to any named party.

AMENDATORY SECTION (Amending WSR 04-21-046, filed 10/15/04, effective 11/15/04)

**WAC 242-02-340 Proof of service--Certificate.** Where proof of service is required by this chapter, by statute, or upon a board's request, filing the original document with the board and serving copies upon all attorneys or other authorized representatives of record and upon parties not represented together with one of the following documents shall constitute proof of service:

(1) An acknowledgement of service;

(2) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon each party or the party's attorney or other authorized representative of record in the proceeding by delivering a copy thereof in person to the named individuals;

(3) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the case by:

(a) Mailing a copy, properly addressed with postage prepaid, to each party or that party's attorney or other authorized representative; or

(b) Transmitting a copy by electronic mail or telefacsimile ~~((device))~~, and on the same day mailing a copy to each party in the

case or that party's attorney, or other authorized representative;  
or

(c) Depositing a copy, properly addressed with charges prepaid, with a commercial parcel delivery company or courier service.

AMENDATORY SECTION (Amending WSR 08-10-029, filed 4/28/08, effective 5/29/08)

**WAC 242-02-530 Motions--Requirements.** (1) A motion is an application for an order or ruling. Every motion shall be in writing, unless made during a hearing; shall state with particularity the grounds; and shall set forth the relief or order sought. An original and four copies of the motion shall be filed with a board and a copy served on each opposing party or that party's attorney or other authorized representative.

(2) All motions shall be properly captioned and signed by the moving party or that party's attorney or other authorized representative.

(3) The motion shall specify the amount of time required for argument, whether appearance by telecommunication is requested, and the names ~~((and))~~, telephone numbers, and electronic mail addresses of all parties served with the motion.

(4) Dispositive motions on a limited record, similar to a motion for summary judgment in superior court or a motion on the merits in the appellate courts, are permitted. Time frames for making and responding to such a motion shall be established by the presiding officer.

(5) Motions to disqualify a hearing examiner acting as the presiding officer, or a board member, for bias, prejudice, interest or other cause, with supporting affidavit(s), may be filed with a board.

(6) Any party may bring a motion for the board to decide a challenge to compliance with the notice and public participation requirements of the act raised in the petition for review, provided that the evidence relevant to the challenge is limited. If such a motion is timely brought, the presiding officer or the board shall determine whether to decide the notice and public participation issue(s) on motion or whether to continue those issues to the hearing on the merits.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92, effective 10/15/92)

**WAC 242-02-534 Response to motions.** (1) A party served with a motion shall have ten days from the date of ~~((receipt))~~ service of the motion to respond to it, unless otherwise directed by the presiding officer. A response to the motion shall be filed with a board and a copy served on the opposing party/parties.

(2) The response shall specify the amount of time required for argument, whether appearance by telecommunication is requested, and the names ~~((and))~~, telephone numbers, and electronic mail addresses of all parties served with the response.

AMENDATORY SECTION (Amending WSR 03-15-047, filed 7/11/03, effective 8/11/03)

**WAC 242-02-834 Publication of final decision and orders.** Copies of all final decisions and orders are available ~~((from the))~~ for an individual board that entered the decision and order from the office of the growth management hearings boards. The growth management hearings boards web site is [www.gmhb.wa.gov](http://www.gmhb.wa.gov). Each board posts its decisions within its individual portion of the web site and maintains a digest of its decisions.